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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,213	03/17/2004	Steven F. Livengood	A2507-US-NP	3559
75931 7590 09/21/2010 BASCH & NICKERSON LLP 1777 PENFIELD ROAD PENFIELD, NY 14526				
EXAMINER				
CRUZ, IRIANA				
ART UNIT		PAPER NUMBER		
2625				
NOTIFICATION DATE		DELIVERY MODE		
09/21/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/802,213

**Applicant(s)**

LIVENGOD ET AL.

**Examiner**

IRIANA CRUZ

**Art Unit**

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 03/09/2010 have been fully considered but they are not persuasive. New evidence in office action rejection dated 12/26/2008 where previously disclosed supporting the examiners stance regarding the use of Tagami in the rejection, which was why the previous office action was non-final enabling applicant an appropriate amount of time to consider examiners newly supply arguments regarding previous stance. Applicant has not rebutted examiners newly supplied evidence regarding previous stance therefore this action has been made FINAL.

### ***Election/Restrictions***

2. Claims 6-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species II and Species III, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 07/23/2009.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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4. **Claims 1-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over Herron (US Publication Number 2005/0157921 A1 ) in view of Tagami et al. (US Patent Number 5,237,425).

Regarding **Claim 1**, Herron'921 shows a method for converting input data representing a color formed from only two colors to output data representing a color in a full color space defined relative to at least three colors (**i.e., a method for converting from a duotone/highlight-color to a full CMYK/color space value, use a full color printer to be able to print what a highlight printer would using at least four colors to represent the two-color original data. See Paragraphs 7-13**), comprising: receiving the two-color input data in the form of two colors, a primary color and a secondary color (**i.e., two colors a primary and secondary color are given in duotone color input ((duotone refers to two colors, a color and black)). See Paragraphs 2 and 7-13**); mapping each color of the two-color input data to an equivalent color defined in the full color space by applying a first mapping function to each color of the two-color input data (**i.e., mapping duotone colors to CMYK/full-color values in color space. See Paragraphs 7-13 and 20-23**).

Herron'921 fails to specifically show a method comprising determining, from the two-color input data, a rendering characteristic for each of the primary color and the secondary color; based upon the rendering characteristics, and the primary and secondary colors, representing a combination of the primary and secondary colors, and the associated rendering characteristics, as an intermediate output; and processing the intermediate output using a second

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function to generate the output data representing a single color defined in the full color space.

Tagami<sup>425</sup> teaches a method comprising determining, from the two-color input data, a rendering characteristic for each of the primary color and the secondary color (i.e., **a two color input data from like the ones needed in highlight printers ((duotone)) need a Ink source Language where the user defines his colors ((like for example the duotone colors)) and the output is define by the colors and screens/rendering- characteristic. See Column 1, Lines 16-35 and 39-55, See Column 3, Lines 15-27 and 55-66**); based upon the rendering characteristics, and the primary and secondary colors, representing a combination of the primary and secondary colors, and the associated rendering characteristics, as an intermediate output (i.e., **the screen set definition ((SCNSET)) represents the intermediate value where the two colors are shown with screen values. See Column 5, Lines 3-23 and 33-42, See Column 6, Lines 29-67 and See Column 7, Lines 1-42 and See Column 8, Lines 36-67 and See Column 12, Lines 12-55 and See Column 15, Lines 60-67**); and processing the intermediate output using a second function to generate the output data representing a single color defined in the full color space (i.e., **with the two colors and the screen directory full color space can be used to define the desired color. See Column 7, Lines 43-67, See Column 9, Lines 39-67, See Column 14, Lines 15-43**).

Having the system of Herron<sup>921</sup> and then given the well-established teaching of the Tagami<sup>425</sup>, it would have been obvious to one having ordinary

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skill in the art at the time of the invention was made to modify the system as suggested by the combination of Herron'921 with the teachings of Tagami'425 by adding determining, from the two- color input data, a rendering characteristic for each of the primary color and the secondary color; based upon the rendering characteristics, and the primary and secondary colors, representing a combination of the primary and secondary colors, and the associated rendering characteristics, as an intermediate output; and processing the intermediate output using a second function to generate the output data representing a single color defined in the full color space, in order to make the system a more user friendly one where the user has the option of defining his colors and creating specific inks and let the user define, palettes, colors, patterns and screens.

Regarding **Claim 2**, Herron'921 shows a method wherein the first function is user-defined (**i.e., the user selects the highlights conversion. See Paragraphs 19- 23**).

Regarding **Claim 3**, Herron'921 shows a method wherein the user-defined function is a user-defined map from a highlight-color space to full-color space (**i.e., the user selects the highlights conversion duotone that will be converted to device independent color space to use the full color space to represent it. See Paragraphs 7-10 and 18-23**).

Regarding **Claim 4**, the combination of Herron'921 and Tagami'425 shows a method wherein the step of representing a combination of the primary and secondary colors, and the associated rendering characteristics, as an intermediate output includes converting the secondary color into an HSV

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representation and applying the percentage of highlight to the HSV representation (i.e., the screen set definition ((SCNSET)) represents the intermediate value where the two colors are shown with screen values; highlight percentage is applied. See Column 5, Lines 3-23 and 33-42, See Column 6, Lines 29-67 and See Column 7, Lines 1-42 and See Column 8, Lines 36-67 and See Column 12, Lines 12-55 and See Column 15, Lines 60-67 in reference Tagami'425).

Regarding **Claim 5**, the combination of Herron'921 and Tagami'425 shows a method wherein the step of processing the intermediate output using a second function to generate the output data representing a single color defined in the full color space, includes applying a percentage black to the intermediate value and then converting the intermediate value to a full-color representation using a programmatic function (i.e., with the two colors and the screen directory full color space can be used to define the desired color. See Column 7, Lines 43-67, See Column 9, Lines 39-67, See Column 14, Lines 15-43 in reference Tagami'425).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IRIANA CRUZ whose telephone number is (571)270-3246. The examiner can normally be reached on Monday-Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, King Y. Poon can be reached on (571) 272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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August 14, 2010

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